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16 (Admitted Pro Hac Vice)

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 CHARLES HORNISHER and  
14 PATRICIA HORNISHER,  
15 Individually and as  
16 Personal Representatives of the  
17 Estate of ERIC JOHN HORNISHER,  
18 Deceased,

17 Plaintiffs,

18 vs.

19 ELI LILLY and COMPANY;  
20 SMITHKLINE BEECHAM CORPORATION  
21 d/b/a GLAXOSMITHKLINE; and  
22 JOHN DOES 1-50,

22 Defendants.

Case No. 3:06-cv-02609-PJH

**~~[PROPOSED]~~ ORDER GRANTING  
STIPULATION OF DISMISSAL**

1 The parties having stipulated and good cause appearing therefore, it is hereby

2  
3 ORDERED that:

4  
5 Pursuant to Fed. R. Civ. P. 41(a), Plaintiffs, Charles Hornisher and Patricia  
6 Hornisher, individually and as personal representatives of the estate of Eric John Hornisher,  
7 deceased, ("the Hornishers") and Defendants, Eli Lilly and Company ("Lilly") and SmithKline  
8 Beecham Corporation d/b/a GlaxoSmithKline ("GSK"), through their designated counsel, jointly  
9 stipulate to the dismissal of this action, with each party bearing its own attorneys' fees and costs. By  
10 agreement of the parties, dismissal of this action shall be without prejudice subject to the following  
11 terms and conditions:

12  
13 1. All applicable limitations periods with respect to all claims the Hornishers  
14 have asserted against Lilly and GSK are tolled from the date this Court enters a judgment of  
15 dismissal until 30 days after the United States Supreme Court issues its final opinion in *Levine v.*  
16 *Wyeth*, No. 2004-384, 2006 WL 3041078 (Vt. Oct. 27, 2006), cert. granted, 128 S. Ct. 1118  
17 (U.S. Jan. 18, 2008)(No. 06-1249);

18  
19 2. If the Hornishers re-file this case, or a similar case arising from Eric John  
20 Hornisher's use of olanzapine and paroxetine, they will file such action in this court within 30 days  
21 of the opinion by the Supreme Court in *Levine*, and will concurrently move pursuant to the local  
22 rules to assign the case to Judge Phyllis J. Hamilton as a related case; and

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25 /////

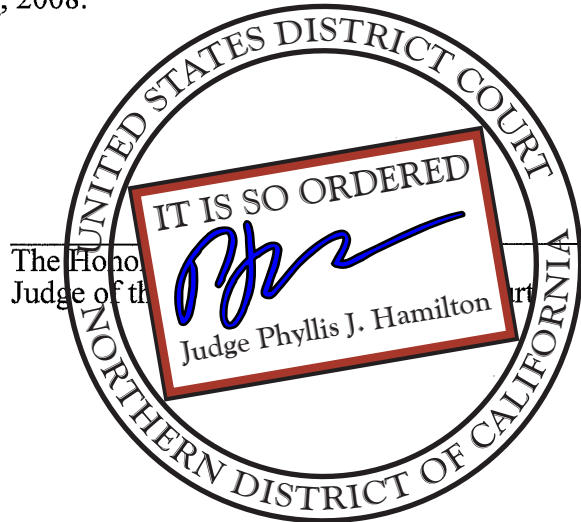
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1           3.       Nothing in this agreement shall be deemed to constitute a waiver of any  
2 defense of Lilly's and GSK's, including defenses based on the statute of limitations, which existed at  
3 the time this action was commenced, and that all of Lilly's and GSK's defenses are expressly and  
4 specifically reserved.

5  
6           Dated: May 13, 2008.



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